IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR
S.B. Civil Writ Petition No.3322/07
Kailash Chand Vs. Kamlesh Devi & Ors.

17.5.2007

Hon'ble Mr. Justice Mohammad Rafiq

Shri Tarun Jain for petitioner.

Heard learned counsel for the petitioner.

Learned counsel for the petitioner has challenged the order dated 6.4.2007 whereby his application for deciding issue no.3 as preliminary issue has been rejected. On perusal of the issue it appears that the issue was to the effect that whether the power of attorney, agreement and bond are not on appropriate stamps and registered for the reasons which are not admissible reasons.

The trial court in its order has given the finding that the issue raised is question of facts and laws and therefore without the evidence of the parties, it shall not be decided. Learned counsel for the petitioner argued that decision on the issue will go to the root of the matter after eventually the issue is decided in favour of the respondent, he will not be acquired to go through the ordinal process of the protracted trial. It was argued that issue is purely of law and not of fact.

In my considered view, whether or not the power of attorney, agreement and the bonds are not on appropriate stamps and registered would have to be decided in the context of the valuation of the property and that would essentially

require evidence of the parties, therefore, the trial court did not commit any error in holding that this issue raised is question of fact and law and would have been decided after evidence.

The writ petition is dismissed.

(Mohammad Rafiq),J.

Rs/-